

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource)	
Optimization)	
)	
Implementation of the Local)	CC Docket 99-200
Competition Provision of)	
The Telecommunications Act)	
of 1996)	

**COMMENTS
Of
UNITED STATES CELLULAR CORPORATION**

United States Cellular Corporation ("USCC") hereby files its comments on the Petition of the California Public Utilities Commission ("CPUC") asking the FCC for authority to implement technology specific "overlay" area codes in certain California numbering plan areas ("NPAs").¹ USCC provides cellular and PCS service in markets throughout the country, including three Rural Service Area (RSA) markets in California.² USCC strongly opposes the CPUC Petition and asks that it not be granted.

Introduction

From 1996 until 2001, FCC policy forbade the states from implementing wireless only "specialized overlays" (SOs), concluding that such overlays were

¹ See Public Notice, "Wireless Competition Bureau Seeks Comments on the Petition of the California Public Utilities Commission For Authority to Implement Technology Specific Overlays, DA 02-2845, CC Docket No. 99-200, released October 24, 2002.

² None of those RSAs overlaps with any of the NPAs discussed in the petition.

"unreasonably discriminatory and ...an unjust and unreasonable practice in violation of Sections 202(a) and 201(b) of the Act.³ The FCC concluded that to require wireless carriers and customers to undergo the difficulty and inconvenience of having to change their telephone numbers without requiring the same thing of wireline carriers and customers would be unreasonably discriminatory and would unduly inhibit competition. Third Report and Order, *supra*, ¶68.

In 2001, the FCC lifted the ban on SOs, "in light of the exigent numbering shortages that exist today." *Ibid*, at ¶72. Concluding that the "benefits" of making more numbers available through SOs might sometimes outweigh their "potential discriminatory effects," the FCC agreed to review state SO proposals on a case by case basis pursuant to the "guidance" and criteria specified in the Third Report and Order.

I. The CPUC Proposal Fails To Comply with the Criteria In the Third Report and Order and Thus Does Not Comply with the Public Interest

The CPUC proposes, *inter alia*, to move the existing NXX codes held by all wireless carriers (except paging companies) in the "310" and "909" NPAs to SOs. This would involve a total of 321 NXX codes, consisting of ten thousand numbers each, and obviously will affect tens of thousands of wireless customers. In addition, new wireless numbers which would otherwise be assigned to the 213, 323, and 562 area codes would be assigned to the "310" SO and wireless numbers in the 714 and

³ Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, 17 FCC Rcd 252, paragraph 68 (2001) (Third Report and Order). See also Proposed 708 Relief Plan and 630 Numbering Plan by Ameritech-Illinois, Declaratory Ruling and Order, 10 FCC Rcd 4596, 4607-12, paragraphs 25-29, 33-35 (1996).

949 area codes would be assigned to the "909" SO. Thus over a large part of southern California, present and future wireless customers will have to undergo an area code change for their existing numbers or will be assigned an area code different from that which they would receive if they sought to obtain wireline service.

The CPUC (Petition, pp 8-12) also proposes to adopt seven digit dialing within the area codes in question. Thus, wireless customers calling other wireless customers within their SO area codes would be able to use seven digits. However, if they were to call "outside" their SO area code, for example to their own wireline phone, they would have to use "one plus ten" digits. The CPUC asserts that the "competitive concerns" which prompted the FCC to adopt a ten digit dialing requirement in 1996 "have largely been abated over time" (Petition, p. 9).

In support of this contention, the CPUC cites a California state statute which permits seven digit dialing, and notes that wireline customers will also have to use "one plus ten" digits to call wireless SO customers. The CPUC also argues that wireless carriers will retain numbers in the 310 and 909 area codes if they have "donated" numbers to those codes. The CPUC, however, cites no statistics on current intra-wireless as opposed to wireless/wireline calling frequency, or on how many such "donated" numbers there actually are.

Moreover, as the CPUC essentially acknowledges, the reason why it wishes to create these SOs is not to confer any benefit on wireless carriers or customers. Rather, it is to extend of the life of the 310 and 909 area codes (Petition, p. 12).

The CPUC does propose a two year sunset for the proposed SOs, after which all carriers would be able to seek numbers for new customers in either in the SO and/or the underlying NPAs.

In response to this proposal, USCC would make the following points. All SOs extend the life of the underlying area codes. If area code "extensions" were the only criterion for approval of SOs, then all SOs would be automatically approved. However, for SO proposals are to be approved, they must meet the other criteria of competitive fairness previously set out by the FCC in the Third Report and Order (§81). This proposal fails to meet at least two of those criteria.⁴

First, it requires "take-backs," that is, tens of thousands of existing wireless customers will have to change their area codes. In the Third Report and Order, supra, at §88, the FCC acknowledged that "take backs" have "significant drawbacks and costs" which need to be considered in reviewing SO requests. The affected wireless carriers will presumably spell out those costs in detail. USCC would only underscore the weakness of the CPUC's arguments supporting the take-back proposal.

The CPUC initially raises the question of whether a mandatory area code change constitutes a take-back at all, since it does not involve a change in a customer's seven digit number. It argues that the FCC has not defined a

⁴ It may fail to meet others as well. However, USCC will leave that discussion to carriers more directly affected by the proposal.

"take-back" and hence this may not be one. However, in the Third Report and Order (Footnote 198), the FCC referred to "take-backs" in New York City requiring "existing paging and wireless subscribers with numbers in the 212 and 718 NPAs [having] to change their numbers to the 917 SO." Though it is not perfectly clear, the most reasonable construction of that sentence is that a mandatory change in a customer's area code constitutes a take-back.

Moreover, in this context, an area code change for an existing customer is arguably as bad as or worse than a ten digit take-back. For example, when an NPA is "split" and all wireline customers in one geographic region receive a different area code, the transition, while somewhat inconvenient, is still relatively easy, since it involves mastery of one new fact, namely the regional area code change which affects all telephone subscribers in a given area. Further, the directory assistance system can remind callers of that change in area code for a transitional period when they use the wrong area code to call someone.

By contrast, this change will require callers to learn that only wireless customers have a new area code. Callers to such customers will have to remember: (a) that the number they are calling is a wireless number; (b) that wireless numbers have a new area code; and (c) what that area code is. Further, the wireline directory assistance system will not be able to redirect mistaken callers to the correct area code. Presumably, the public switched telephone network will simply not be able to complete a call made to a wireless customer which uses the wrong area code. There will be many such calls.

Take-backs in this context would impose injustices and inconveniences on everyone, but especially on wireless carriers and customers.

The second reason for not adopting this proposal is that it would be unfair and discriminatory in this situation to permit customers within NPAs to continue to use seven digit dialing while requiring calls from one area code to another to use "one plus ten" digit dialing.

While the seven digit proposal has a superficial symmetry and sense of equity, that symmetry collapses when one considers that the bulk of wireless calls are still made to wireline phones. Thus, wireless customers will have the inconvenience of dialing ten digits when they make a majority of their calls, whereas wireline customers calling the same numbers will not.

Also, leaving aside considerations of competitive equity, it will be a source of endless confusion and difficulty if all telephone subscribers in the relevant NPAs, both wireless and wireline, always have to remember: (a) whether they are dialing a wireline or wireless phone; and (b) which of those calls requires seven and which requires ten digit dialing, not to speak to the problem of remembering what the ten digits are. Many will not remember one or more of those things, the calls will not go through and the CPUC and the FCC may hear about it.

Finally, USCC believes that the seven digit dialing proposal will unnecessarily complicate the implementation of local number portability. If a customer seeks to "port" his or her number from a wireline to a wireless carrier in the same NPA, those calling him or her would now have to dial an extra three digits

(the new SO area code) when they had not had to dial any area code previously.

This is unfair to wireless carriers and will needlessly complicate a process which will have more than its fair share of problems without adding any.

This proposal is obviously being made to please wireline customers, who do not wish to dial three more digits. However, it is inequitable and unwise for the reasons given above. It should not be adopted.

Conclusion

USCC is not directly affected by this overlay and hence does not take a position on whether a fairer overlay might be appropriate in these circumstances. Presumably, the wireless carriers directly affected are in a better position to judge that issue. However, the FCC should not adopt this proposal or any similar SO proposal which involves take-backs and discriminatory seven digit dialing. Such proposals are unfair and unworkable and do not serve the public interest.

Respectfully submitted,

UNITED STATES CELLULAR
CORPORATION

By /s/ Peter M. Connolly
Peter M. Connolly
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W. #100
Washington, DC 20006
(202) 862-5989

Its Attorney

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